



**Maine Department of Health and Human Services**  
**11 State House Station**  
**Augusta, Maine 04333-0011**  
**Bureau of Medical Services**

November 17, 2004

**TO:** Interested Parties

**FROM:** Christine Gianopoulos, Acting Director, Bureau of Medical Services

**SUBJECT:** Proposed Rule: MaineCare Benefits Manual, Chapter VI, Section 2, MaineCare DirigoChoice Initiative

This letter gives notice of a proposed rule: MaineCare Benefits Manual, Chapter VI, Section 2, MaineCare DirigoChoice Initiative. This is a new rule that implements legislation (PL 2003, Chapter 459) authorizing the DirigoChoice Health Plan. The rule describes the circumstances under which MaineCare members may participate in the DirigoChoice Health Plan.

Through a competitive bidding process, the Department of Health and Human Services selected a health insurance carrier to provide the DirigoChoice Health Plan to MaineCare members. The DirigoChoice Health Plan is a Preferred Provider Organization (PPO) product.

MaineCare members enrolled in the DirigoChoice Health Plan will have access to all MaineCare covered services they are eligible to receive based on their coverage group. MaineCare members will use a DirigoChoice ID card to access certain MaineCare covered services from the DirigoChoice Health Plan provider network. They will get a MaineCare ID card to access MaineCare covered services that are not covered by DirigoChoice from MaineCare providers.

Rules and related rulemaking documents may be reviewed at and printed from the Bureau of Medical Services website at <http://www.maine.gov/bms/MaineCareBenefitManualRules.htm> or, for a fee, interested parties may request a paper copy of rules by calling (207) 287-9368. The TTY number is 1-800-423-4331 or (207) 287-1828 (Deaf/Hard of Hearing).

A concise summary of the proposed rule is provided in the Notice of Agency Proposed Rulemaking. This notice also provides information regarding the rule-making process. Please address all comments to the agency contact person identified in the Notice of Agency Proposed Rulemaking.

## **Notice of Agency Rule-making Proposal**

**AGENCY:** Department of Health and Human Services, Bureau of Medical Services

**RULE TITLE OR SUBJECT:** MaineCare Benefits Manual, Chapter VI, Section 2, MaineCare DirigoChoice Initiative

**PROPOSED RULE NUMBER:**

**CONCISE SUMMARY:.** This is a new rule that describes the circumstances under which MaineCare members may participate in the DirigoChoice Health Plan. The Department of Health and Human Services selected a health insurance carrier to provide the DirigoChoice Health Plan to MaineCare members. MaineCare members continue to have access to all MaineCare covered services they are eligible to get based on their coverage group. Services will be available from the carrier's provider network or from MaineCare providers for services not covered by DirigoChoice.

**SEE <http://www.maine.gov/bms/MaineCareBenefitManualRules.htm> FOR RULES AND RELATED RULEMAKING DOCUMENTS.**

**THIS RULE WILL ☐ WILL NOT ☒ HAVE A FISCAL IMPACT ON MUNICIPALITIES.**

**STATUTORY AUTHORITY:** 22 M.R.S.A., § 42, § 3173; PL 2003, Chapter 459

**PUBLIC HEARING:** December 7, 2004 1:00 PM  
Location: Conference Room 1B  
Department of Health and Human Services  
442 Civic Center Drive  
Augusta, ME

Any interested party requiring special arrangements to attend the hearing must contact the agency person listed below before November 24, 2004.

**DEADLINE FOR COMMENTS:** Midnight December 17, 2004

**AGENCY CONTACT PERSON:** Linda Schumacher  
**AGENCY NAME:** Bureau of Medical Services  
**ADDRESS:** 442 Civic Center Drive  
11 State House Station  
Augusta, Maine 04333-0011

**TELEPHONE:** (207) 287-9370 **FAX:** (207) 287-9369 **TTY:** 1-800-423-4331 or (207) 287-1828  
(Deaf/ Hard of Hearing)

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**Introduction**

Public Law 2003, Chapter 469 established the Dirigo Health Agency (DHA) as an independent executive agency to arrange for the provision of a program of comprehensive, affordable health and wellness coverage for employees of small businesses (2-50 employees) and their dependents, the self employed of one, and individuals not joining through an employer.

Through a competitive bidding process, the Dirigo Health Agency and the Department of Health and Human Services (DHHS), selected a health insurance carrier to provide the DirigoChoice Health Plan (Plan), a Preferred Provider Organization (PPO) product, to MaineCare members. The Department of Health and Human Services contracts with the carrier for the provision of the DirigoChoice Health Plan covered services to MaineCare members.

These rules describe the circumstances under which MaineCare members may participate in the Plan and how MaineCare members enrolled in the Plan will access MaineCare covered services.

**2.01 MaineCare Members Eligible to Enroll in the DirigoChoice Health Plan**

MaineCare members may voluntarily enroll in the Plan **only** if they work for a DHA eligible business that offers the DirigoChoice Health Plan to its employees and meet the requirements of an eligible employee.

MaineCare member means current MaineCare members or those found eligible for MaineCare as a result of applying for the DirigoChoice Health Plan.

**2.02 Enrollment and Disenrollment**

2.02-1 Enrollment

A. DHA Eligible Business and Eligible Employee

DHA eligible business means a business that employs at least two but not more than 50 eligible employees, the majority (>50%) of whom are employed in the State of Maine.

Eligible employee means an employee of a DHA eligible business who is expected to work:

1. at least 20 hours per week, and
2. at least 26 weeks annually, and
3. on more than a temporary or substitute basis.

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B. Discount Determination

There are six DirigoChoice Health Plan groups, A-F. There are five discount groups, A-E. Discount group A (100%) is MaineCare. If a DirigoChoice Health Plan applicant applies for MaineCare as part of the Plan discount application process, the DHHS will determine if the applicant is:

1. already enrolled in MaineCare or eligible to enroll in MaineCare according to rules promulgated in the MaineCare Eligibility Manual and eligible to enroll in DirigoChoice Health Plan discount group A, or
2. eligible for the DirigoChoice Health Plan other than through MaineCare, discount group A.

The DHHS or DHA, as its agent, will send written notice to DirigoChoice Health Plan discount applicants notifying them whether they are eligible for MaineCare. For those Plan discount applicants not already enrolled in MaineCare but determined eligible for MaineCare, the DHHS will enroll them in MaineCare in accordance with the policies promulgated in the MaineCare Eligibility Manual.

When a MaineCare member is eligible to enroll in DirigoChoice Health Plan discount group A, the DHHS or DHA will notify the carrier. Before enrolling MaineCare members in the Plan, the carrier must verify:

1. student status, if applicable;
2. domestic partner status, if applicable; and
3. 75% employee participation for employer groups.

C. Effective Date of Enrollment

1. MaineCare

For DirigoChoice Health Plan discount applicants who are determined newly eligible for MaineCare, the effective date of enrollment in MaineCare will be the first day of the month the application is received or the following month, whichever month eligibility first occurs. Coverage for up to three months prior to the month of application will be authorized if eligibility exists.

a. DirigoChoice Health Plan

The effective date of enrollment in the DirigoChoice Health Plan will be:

- b. The first day of the month following the month in which the member enrolls in the Plan, if the carrier enrolls the member on or before the 20<sup>th</sup> of that month; or

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- c. The first day of the 2<sup>nd</sup> month following the month in which the member enrolls in the Plan, if the carrier enrolls the member on or after the 21<sup>st</sup> of that month.

However, the effective date of enrollment will never be before January 1, 2005.

D. Primary Care Provider

MaineCare members are encouraged, but not required, to select a primary care provider from the carrier's network of primary care providers.

2.02-2 Disenrollment From the DirigoChoice Health Plan

A. Disenrollment Reasons and Process

1. Member Request

MaineCare members enroll in the DirigoChoice Health Plan on a voluntary basis and may request to disenroll at anytime. MaineCare members or their representatives must submit a written request to the carrier requesting disenrollment. In this event, MaineCare members will not lose MaineCare coverage as long as they continue to meet the MaineCare eligibility rules as promulgated in the MaineCare Eligibility Manual.

2. Carrier Request

The carrier may submit a written request to the Department for approval to disenroll a member from the DirigoChoice Health Plan for, but not limited to, the following reasons:

- a. The member is physically or verbally abusive to a provider or the provider's staff; or
- b. The member is in the process of being formally discharged from a practice; or
- c. There is a pending lawsuit between a member and a provider.

The carrier cannot request that a member be disenrolled from the Plan because of a change in the member's health status or utilization of services.

3. Department Initiated

The DHHS will initiate Plan disenrollment when a MaineCare member is no longer eligible for MaineCare. The DHHS will review eligibility to

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see if a person can continue to be enrolled in the other DirigoChoice Health Plan groups (B-F).

4. Other

Other reasons MaineCare members may be disenrolled from the Plan include, but are not limited to:

- a. loss of employment with a DHA eligible business; or
- b. a DHA eligible business does not continue to offer the Plan to its employees.

B. Effective Date of Disenrollment from the DirigoChoice Health Plan

The effective date of disenrollment from the Plan will be the last day of the month in which a request is submitted to the carrier or the DHHS or the last day of the last month of MaineCare eligibility.

**2.03 Services**

2.03-1 General

MaineCare members enrolled in the DirigoChoice Health Plan continue to have access to all MaineCare services (MaineCare Benefits Manual, Chapters II & III) they are eligible to receive based on their coverage group.

MaineCare members will access these services either from:

1. the carrier's network for DirigoChoice Health Plan covered services, or
2. MaineCare providers for wrap services not covered by the Plan.

The DirigoChoice Health Plan Certificate of Coverage explains the terms, covered services, conditions, exclusions, and limitations of the Plan coverage. The carrier will base all decisions on the provision of services as detailed in the Certificate of Coverage.

The MaineCare Benefits Manual explains the terms, covered services, conditions, exclusions, and limitations of MaineCare covered services. The DHHS will base all decisions on the provision of services as detailed in the Manual.

2.03-2 Covered Services

A. DirigoChoice Health Plan

1. Covered Services

The following services, described in the MaineCare Benefits Manual, Chapters II & III, are covered by the carrier. MaineCare members can

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access these services through the carrier's network of providers in accordance with the carrier's Certificate of Coverage.

- a. Ambulatory Surgical Center Services, Section 4
- b. Advanced Practice Registered Nursing Services, Section 14
- c. Chiropractic Services, Section 15
- d. Family Planning Agency Services - Section 30
- e. Federally Qualified Health Center Services, Section 31
- f. Home Health Services, Section 40
- g. Hospice Services, Section 43
- h. Hospital Services, Section 45 (preponderance of services covered, some special services such as intestinal transplants are not covered.)
- i. Laboratory Services, Section 55
- j. Physician Services, Section 90 (preponderance of services covered, some special services are not covered.)
- k. Podiatric Services, Section 95
- l. Medical Imaging Services, Section 101
- m. Rural Health Clinic Services, Section 103
- n. Substance Abuse Treatment Services - Section 111
- o. VD Screening Clinic Services, Section 150

2. Special Circumstances

a. Family Planning Services

Members may get family planning services from any provider of their choice in or out of the carrier's network.

b. Direct Access to Women's Health Specialist

Female members may directly access a women's health specialist within the carrier's network for covered care necessary to provide women's routine and preventive health care services. This is in addition to the member's designated source of primary care if that source is not a woman's health specialist.

c. Emergency Services

Members who experience an emergency medical condition may access emergency services without first contacting the carrier.

d. Special Health Care Needs

Members with special health care needs may directly access a specialist as appropriate for their condition and identified needs.

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The carrier will identify members with special health needs as specified in the DHHS contract with the carrier.

e. Second Opinion

Members may get a second surgical or medical opinion from a provider in or out of the carrier's network at no charge.

B. Wrap Services

1. General

Wrap services are MaineCare covered services that are not included in the DirigoChoice Health Plan, i.e the carrier is not responsible for providing the services. There are complete and partial wrap services.

Complete wrap services are MaineCare Benefits Manual, Chapters II & III, covered services that the carrier does not provide at all as part of the Plan. MaineCare members must directly access these services without seeking coverage through the carrier.

Partial wrap services are MaineCare Benefits Manual, Chapters II & III, covered services that are provided by the carrier or MaineCare. MaineCare members must first exhaust coverage through the carrier before seeking these services through MaineCare. MaineCare will not provide coverage of these services if:

- a. the carrier has denied coverage for the service based on medical necessity;
- b. the member has not followed the carrier's procedures for obtaining the service; or
- c. the member does not meet MaineCare medical eligibility guidelines or process for the service established in the MaineCare Benefits Manual.

2. Complete Wrap

The following services, described in the MaineCare Benefits Manual, Chapters II & III, are complete wrap services.

Any new sections which represent a newly added covered service to the MaineCare Benefits Manual, Chapters II & III, will automatically be incorporated as part of this Section on the date the MaineCare policy becomes effective unless these rules are revised to include the service as a DirigoChoice Health Plan covered service.

- a. Adult Family Care Services, Section 2
- b. Consumer Directed Attendant Services, Section 12
- c. Targeted Case Management Services, Section 13



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- d. Community Support Services, Section 17
- e. Home & Community-Based Waiver Services for the Physically Disabled, Section 22
- f. Day Habilitation Services for Persons with Mental Retardation, Section 24
- g. Day Health Services, Section 26
- h. Early Intervention Services, Section 27
- i. Hearing Aids and Services, Section 35
- j. ICF-MR Services, Section 50
- k. Licensed Clinical Social Worker Services, Section 58
- l. Genetic Testing and Clinical Genetic Services, Section 62
- m. Pharmacy Services, Section 80 (medications)
- n. Private Non-Medical Institution Services, Section 97
- o. School Based Rehabilitative Services, Section 104
- p. Transportation Services, Section 113
- q. Other Services: sterilizations and hysterectomies; abortions (Sections 45, 90).

3. Partial Wrap

The following services, described in Chapters II & III of the MaineCare Benefits Manual, are partial wrap services.

- a. Ambulatory Care Clinic Services, Section 3
- b. Ambulance Services - Section 5
- b. Audiology Services, Section 10
- c. Home and Community-Based Benefits for the Elderly and for Adults with Disabilities, Section 19 (e.g.; home health and therapies)
- d. Home & Community-Based Waiver Services for Persons with Mental Retardation, Section 21 (e.g.; therapies)
- f. Developmental and Behavioral Evaluation Clinic Services, Section 23
- g. Dental Services, Section 25
- h. Home Based Mental Health Services, Section 37
- i. Day Treatment Services, Section 41
- j. Psychiatric Facility Services, Section 46
- k. Medical Supplies and Durable Medical Equipment, Section 60
- l. Mental Health Services, Section 65
- m. Nursing Facility Services, Section 67
- n. Occupational Therapy Services, Section 68
- n. Vision Services, Section 75
- o. Pharmacy Services, Section 80 (some supplies)
- q. Physical Therapy Services, Section 85
- r. Prevention, Health Promotion, and Optional Treatment Services, Section 94 (formerly Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Services)
- s. Private Duty Nursing and Personal Care Services, Section 96
- t. Psychological Services, Section 100

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- u. Rehabilitative Services, Section 102
- v. Speech and Hearing Agencies, Section 105
- w. Speech-Language Pathology Services, Section 110

2.03-3 Cost Sharing

A. DirigoChoice Health Plan Covered Services

1. Co-Payments, Deductibles and Co-insurance

MaineCare members do not have to pay co-payments, deductibles, co-insurance, or any other cost sharing amounts for DirigoChoice Health Plan covered services available pursuant to the terms of the Certificate of Coverage when they get those services from a provider participating in the carrier's network.

2. Payment Responsibilities

MaineCare members are responsible for paying any:

- a. applicable DirigoChoice Health Plan co-payments, co-insurance, or deductibles for Plan covered services they get outside of the carrier's network;
- b. amount over the carrier's reasonable and customary allowance for services received out of the carrier's network; and
- c. penalties resulting from failure to obtain any carrier required authorization for Plan covered services.

3. Employee Contributions for the Cost of the DirigoChoice Health Plan

Employers will deduct employee contributions for the cost of the DirigoChoice Health Plan from employee paychecks for all employees, including MaineCare members. The DHHS will reimburse MaineCare members the total amount of the payroll deduction on the same day it is withdrawn from the employee's paycheck.

**Exception:** For MaineCare members required to pay a premium for MaineCare coverage, the reimbursement amount will be reduced by the amount of the member's MaineCare premium. MaineCare will no longer send premium coupons to MaineCare members enrolled in the Plan.

B. Wrap Services

For wrap services, MaineCare members must pay co-payments and meet other cost sharing requirements established in the MaineCare Benefits Manual.

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**2.04 Appeals and Administrative Hearings**

2.04-1 Carrier Appeal Process

A. Adverse Action

Adverse action means the denial or limited authorization of a requested service, including the type or level of service, the reduction, suspension or termination of a previously authorized service, the denial, in whole or in part, of payment for a service, or the failure to provide a service in a timely manner, as defined by the Department.

B. Notice of Adverse Actions

The carrier must provide written notice of adverse actions to MaineCare members at least 10 days prior to the effective date of the adverse action involving the termination, denial, suspension or reduction of a previously authorized course of treatment. The written notice must contain the following information:

1. the actions that the carrier intends to take;
2. the reasons for the action;
3. the MaineCare member's right to file an appeal with the carrier, specifying the process by which such a filing may be made, to include a toll-free telephone number that the member may use to file such an appeal;
4. the MaineCare member's right to request a Department Administrative Hearing and the process to do that;
5. the procedures for exercising the rights specified in this paragraph;
6. the circumstances under which expedited resolution is available and how to request it;
7. the MaineCare Member's right to have services continue pending resolution of the appeal and how to request that services be continued, and the circumstances under which the MaineCare member may be required to pay the costs of these services provided while an appeal is pending.

C. Appeals

MaineCare members must file an appeal with the carrier, either orally or in writing, within 180 days of the adverse action. Unless members request an expedited resolution, they must follow an oral request with a written request.

Except in the case of an expedited resolution, the carrier must render a final written decision on a MaineCare member's appeal of an adverse action within 60 days from the date the request was received in writing or orally.

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For DirigoChoice Health Plan covered services, MaineCare members must exhaust the carrier's appeal process before requesting an Administrative Hearing with the Department.

D. Expedited Resolution

MaineCare members may request an expedited review process for appeals when the carrier or a provider on behalf of a member determines that taking the time for the standard resolution could seriously jeopardize the member's life, health or ability to attain, maintain or regain maximum function.

E. Continuation of Benefits

The carrier must continue services if (a) the MaineCare member appeals within 10 days of the carrier's mailing the notice of adverse action or within 10 days of the intended effective date of the carrier's proposed action, and (b) the appeal involves the termination, suspension or reduction of a previously authorized course of treatment.

2.04-2 Department Administrative Hearinga.

A. Appeal of Carrier Decision About DirigoChoice health Plan Covered Services

The carrier must notify the member of his or her rights to an Administrative Hearing as part of the appeal decision notification.

A member who disagrees with the carrier's decision must request an Administrative Hearing in accordance with the rules set forth in the MaineCare Benefits Manual, Chapter I.

B. Appeal Concerning Wrap Service

MaineCare members may request an Administrative Hearing in accordance with the rules set forth in the MaineCare Benefits Manual, Chapter I.